

ISSUE DATE: April 28, 1999

DOCKET NO. P-442, 407, 5321, 466/CI-96-1541

ORDER TERMINATING INVESTIGATION, DISMISSING PROCEEDING AND CLOSING
DOCKET

BEFORE THE MINNESOTA PUBLIC UTILITIES COMMISSION

Edward A. Garvey
Joel Jacobs
Marshall Johnson
LeRoy Koppendrayner
Gregory Scott

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of the Investigation of
GTE-Minnesota's Cost of Providing
Interconnection and Unbundled Network
Elements

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PROCEDURAL HISTORY

On December 12, 1996, the Commission issued its ORDER RESOLVING ARBITRATION ISSUES AND OPENING COST PROCEEDING in Docket No. P-442, 407/M-96-939. In its Order, the Commission

- established interim prices for interconnection and unbundled network elements in GTE's service area; and
- initiated the current docket (P-442, 407, 5321, 466/CI-96-1541) as a generic cost proceeding to establish prices to replace those interim rates.

On March 26, 1997, the Commission referred the generic cost proceeding (P-442, 407, 5321, 466/CI-96-1541) to the Office of Administrative Hearings.

On April 24, 1998, AT&T requested that the Commission defer this case to June 1, 1999, at which time the Commission would re-visit the need for rescheduling. AT&T stated that it suffered from a most critical lack of resources needed to participate in the proceeding.

On June 6, 1998, the Commission issued an Order deferring the proceedings until January 19, 1999.

On September 3, 1998, the ALJ issued a letter acknowledging MCImetro's notice of withdrawal from this proceeding.

On December 31, 1998, the ALJ asked the parties to indicate their positions as to whether and how to proceed with this docket.

Responses were received from GTE (January 20, 1999 and February 12, 1999), Sprint (February 1, 1999), the Department (February 2, 1999), AT&T (February 8, 1999), and the RUD-OAG (February 12, 1999).

On March 12, 1999, the Administrative Law Judge (ALJ) recommended, based on the parties' comments, that the proceeding be dismissed without prejudice.

The Commission met on April 6, 1999 to consider this matter.

FINDINGS AND CONCLUSIONS

In its June 9, 1998 Order deferring the proceedings at AT&T's request, the Commission expressed a desire to move this docket forward "as quickly as circumstances reasonably allow." However, based on the comments recently filed by the parties, the Commission concludes that it would be inappropriate to move forward with the proceeding at this time and that there is no reasonable prospect that simply deferring the proceedings for a reasonable time would improve the prospects for a better prognosis.

The Department and the RUD-OAG recommended that the Commission terminate the proceeding and close the docket, especially in light of GTE's intent to sell its Minnesota exchanges. No party objected to that proposed action. Sprint and AT&T indicated that if the proceedings were continued, they would not be participating. The Department reported that it had surveyed a number of telecommunications carriers, asking about their ability and/or desire to participate in the proceedings. The Department stated that only two respondents out of 26 replied unambiguously that it was important to establish permanent UNE prices for GTE, and only one carrier expressed a keen desire to participate in the proceedings.

In these circumstances (declining perceived need for setting permanent UNE rates for GTE and virtually no desire/ability to participate in this proceeding), the Commission concludes that it is appropriate to terminate this investigation (without prejudice to open such a proceeding in the future, e.g. for the new owners of GTE's exchanges) and to close the docket. Proceeding at this point would produce a poorly developed record to establish UNE rates for a company that may no longer operate in Minnesota.

ORDER

1. This matter, a generic cost proceeding to establish prices for interconnection and unbundled network elements (UNEs) in GTE's service area to replace the interim rates set in the Commission's December 12, 1996 ORDER in Docket No. P-442, 407/M-96-939 is dismissed without prejudice.
2. The Commission clarifies that interim UNE rates established in the original arbitration proceeding (December 12, 1996 ORDER in Docket No. P-442, 407/M-96-939) remain in

effect, subject to true up.

3. This docket (Docket No. P-442, 407, 5321, 466/CI-96-1541) is hereby closed.
4. This Order shall become effective immediately.

BY ORDER OF THE COMMISSION

Burl W. Haar
Executive Secretary

(S E A L)

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